

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.40927 of 2016

Dr.S.Narayanan

...Petitioner

Vs.

The Principal Secretary to Government
Health and Family Welfare Department
Secretariat, Fort St. George,
Chennai - 600 009.

...Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to consider and pass orders on the representation of the petitioner dated 03.02.2016 in accordance with law and facts mentioned in the affidavit.

For Petitioner : Mr.B.Nedunchezhiyan

For Respondent : Mr.K.Dhananjayan
Special Government Pleader

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The present writ petition has been filed seeking a Mandamus directing the respondent to consider and pass orders on the representation of the petitioner dated 03.02.2016 in accordance with law and facts mentioned in the affidavit.

3.The petitioner would state that he was working at Madras Medical College as Selection Grade Non-Medical Assistant Professor of Anatomy and was subsequently, appointed as Special Grade Non-Medical Assistant Professor of Anatomy. He underwent MBBS Course at Madras Medical College and during his study period, he executed a bond to serve the Government for five years after completing MBBS course failing which, he should pay Rs.50,000/-. After completing MBBS, he joined Madras Medical College in the same post on 20.01.1991. Thereafter, he was deputed to newly started I.R.T. Perundurai Medical College as Associate Professor of Anatomy for a period of one year with effect from 14.08.1992.

4.The petitioner would further state that while on deputation, due to pressure, he applied for voluntary retirement with three months advance notice period, but the Government did not relieve him stating that he has to pay the due amount to the Government for the un-served portion of the bond period. Thereafter, the petitioner paid the due amount and requested the Government to relieve him, but the Government directed to once again apply for voluntary retirement. Hence, the petitioner once again applied for voluntary retirement, but well before the completion of the three months period, he submitted a letter to the Government for withdrawal of the voluntary retirement. But no action was taken.

5.The petitioner would further state that on completion of one year of deputation, he was not reverted back to the parent department. The deputation period from 14.08.1992 to 13.08.1993 was also not extended on the expiry of one year of deputation on time. He was also not relieved on expiry of three months notice period for voluntary retirement, but was deemed to have been relieved from service on VRS with retrospective effect from 02.12.1993 A.N. in Ref.G.O.Ms.No.50, dated 19.01.1994 of Health and Family Welfare (AA.1) Department, Memo Rc.No.34451/E2/1/92 dated 31.01.1994 of the Director of Medical Education and Ref.No.13003/B3/2/93 dated 01.02.1994 of the Dean, Madras Medical College, Chennai.

6.The petitioner would further state that the Director of Medical Education extended the period of deputation upto 02.12.1993 in Ref.Rc.No.10579/E2/1/94 dated 02.03.1994 with retrospective effect, but even before that, he was deemed to have been relieved from service on VRS with retrospective effect from 02.12.1993 AN in Ref.G.O.Ms.No.50, dated 19.01.1994 of Health and Family Welfare (AA.1) Department, Memo

Rc.No.34451/E2/1/92 dated 31.01.1994 of the Director of Medical Education and Ref.No.13003/B3/2/93 dated 01.02.1994 of the Dean, Madras Medical College, Chennai.

7.The petitioner would further state that the question of regulating the period from 03.12.1993 to 19.01.1994 was examined by the Government and the Government has directed that the service rendered by the petitioner from 03.12.1993 to 19.01.1994 be treated as re-employment under the Tamil Nadu Medical Service in G.O.(Ms.) No.644 dated 11.08.1994 of Health and Family Welfare (AA1) Department, but the said order was not communicated to the petitioner and his consent was also not obtained for re-employment. The petitioner continued his service at I.R.T. Perundurai Medical College from 03.12.1993 till superannuation on 30.06.2003.

8.The petitioner would further state that he is eligible to be promoted as Reader and subsequently as Professor with M.Sc. (Faculty of Medicine) qualification and teaching experience alone as per the Regulations of Medical Council of India dated 05.06.1971. The petitioner has made several representations seeking to promote him as Non-Medical Reader in Anatomy by re-designating or upgrading the post of Selection Grade Non-Medical Assistant Professor of Anatomy which he was holding as on 28.09.1982 and subsequently, promote him as Professor of Anatomy with retrospective effect by upgrading the post of Non-Medical Reader in Anatomy or by upgrading the post of Special Grade Non-Medical Assistant Professor of Anatomy which he was holding as on 28.09.1992 or by any other method as may deem fit including consideration for retention of Professor of Anatomy Post which he was holding at IRT Perunthurai Medical College and treat the entire period of his service at IRT Perunthurai Medical College till superannuation as 'on deputation' by relaxing the rules of deputation as a special case. But the same have not been considered. Hence, this petition.

9.Heard the submissions of the learned counsel appearing for the petitioner and the learned Special Government Pleader who take notice for the respondent.

10.Considering the submissions made on either side and without going into the merits of the claim made by the petitioner, this Court directs the respondent to consider the representation of the petitioner dated 03.02.2016, on merits and in accordance with law and pass appropriate orders, within a period of eight weeks from the date of receipt of a

copy of this order.

11.The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

pri Sub Assistant Registrar

To

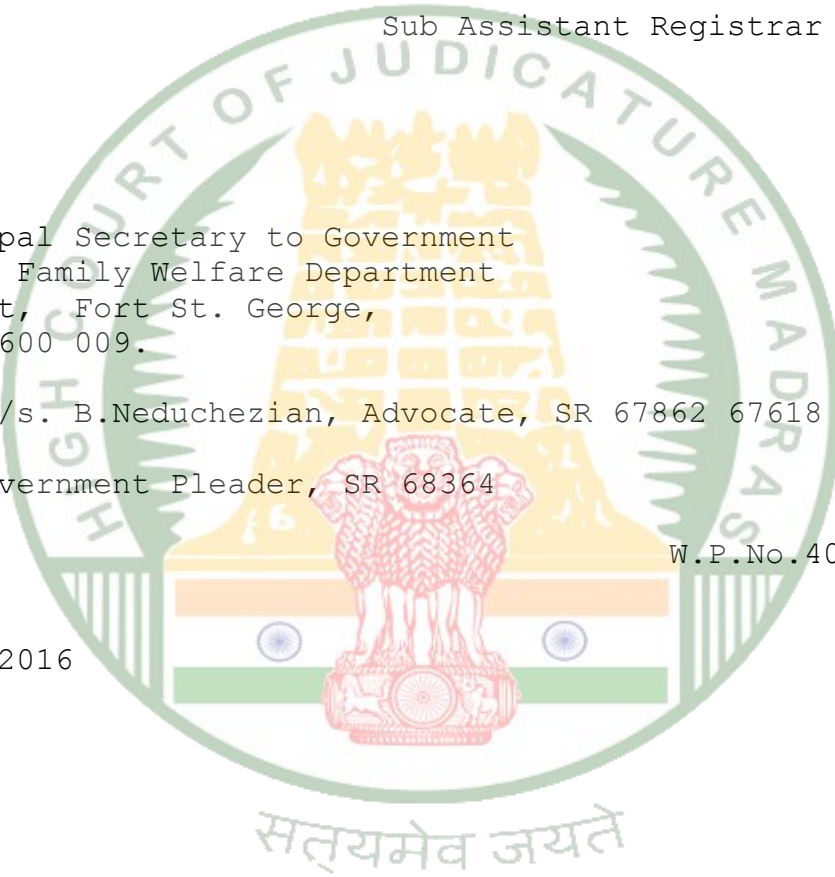
The Principal Secretary to Government
Health and Family Welfare Department
Secretariat, Fort St. George,
Chennai - 600 009.

+2CCs to M/s. B.Neduchezian, Advocate, SR 67862 67618

+1CC to Government Pleader, SR 68364

W.P.No.40927 of 2016

MP (CO)
PSI 30/12/2016



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